STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Notice of Decision

Decision Date: April 21, 2017

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000014381

[redacted]

Dear [redacted]

On March 30, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's December 20, 2016 eligibility determination notice.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of NY State of Health.

If you have questions about your Decision, you can contact us by:

- Calling the Customer Service Center at 1-855-355-5777
- Sending Mail to:

  NY State of Health Appeals
  P.O. Box 11729
  Albany, NY 12211

- Sending a Fax to 1-855-900-5557

When contacting NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification number and the Account ID at the top of this notice.

Legal Authority

We are sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545.

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If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY – Spanish: 1-877-662-4886).

STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Decision

Decision Date: April 21, 2017

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000014381

[redacted]

Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

> Did NY State of Health (NYSOH) properly determine that you and your spouse were newly eligible to purchase a qualified health plan (QHP) at full cost effective as of January 1, 2017?

Procedural History

On November 29, 2016, an application for financial assistance was submitted for you and your spouse.

On November 30, 2016, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible for up to $589.00 monthly of advance premium tax credit (APTC) for a limited time, effective as of January 1, 2017. The notice directed you to provide additional proof of income by December 13, 2016, to confirm your household's eligibility.

Also on November 30, 2016, NYSOH issued an enrollment notice confirming that you and your spouse were enrolled in a QHP, with a monthly premium of $395.03, with an enrollment start date of January 1, 2017. The notice directed you to provide additional proof of income by December 13, 2016, to confirm your household's eligibility.

On December 19, 2016, your account was systemically updated.

On December 20, 2016, NYSOH issued an eligibility determination notice stating that you and your spouse were newly eligible to purchase a QHP at full cost, effective as of February 1, 2017. The notice stated that you were not eligible to

receive APTC because NYSOH did not received the income documentation needed to verify the income listed in your application.

Also on December 20, 2016, NYSOH issued an enrollment notice confirming that you and your spouse were enrolled in a QHP, with a monthly premium of $984.03, with an enrollment start date of January 1, 2017.

On December 28, 2016, you spoke to NYSOH's Account Review Unit and requested an appeal insofar as the termination of your APTC for January 2017.

On March 30, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open until March 30, 2017, to allow you to submit additional documentation.

On March 30, 2017, you faxed two-pages of documents to NYSOH Appeals Unit. Those documents will be referred to as "Appellant Exhibit A" and have been incorporated into the record. The record is now complete and closed.

Findings of Fact

A review of the record supports the following findings of fact:

1) According to your NYSOH account, on November 29, 2016, a financial assistance application, for 2017, was initially submitted for you and your spouse.

2) You testified that you faxed income documentation to NYSOH on November 30, 2016.

3) On March 30, 2017, you submitted a Transmission Verification Report to the NYSOH Appeals Unit. That report states that five-pages were faxed to [redacted] on November 30th at 8:01 pm (Appellant Exhibit A pg. 2).

4) According to your NYSOH account, your and your spouse's eligibility was redetermined on December 19, 2016, and you and your spouse were found no longer eligible for APTC.

5) You testified that on December 20, 2016, you received a January 2017 health insurance premium statement, from Affinity, stating that your premium was $395.03.

6) You testified that on or around December 25, 2016, you accessed Affinity's website to pay your health insurance premium and the website stated that your January 2017 premium was $984.03.

7) You testified that you paid $984.03 for the January 2017 premium and want to be reimbursed ($984.03 (-) $395.03) $589.00 based on the financial assistance that you should have received from NYSOH.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

Verification of Eligibility for Advance Payments of the Premium Tax Credit

APTC are generally available to a person who is eligible to enroll in a qualified health plan and (1) expects to have a household income between 138% and 400% of the applicable federal poverty level (FPL), (2) expects to file a tax return and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a qualified health plan, and (3) is not otherwise eligible for minimum essential coverage except through the individual market (*see* 45 CFR § 155.305(f), 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

An applicant is required to attest to their household's projected annual income for purposes of determining their eligibility for APTC (45 CFR § 155.320(c)(3)(ii)(B)). For all individual's whose household income is needed, NYSOH must request tax return data from the Secretary of the Treasury and data regarding Social Security benefits from the Commissioner of Social Security to confirm that the information the applicant is attesting to is accurate (45 CFR § 155.320(c)(1)(i); 45 CFR § 155.320(c)(3)(ii)(A)).

If income data is unavailable, or if an applicant's attestation is not reasonably compatible with the income data NYSOH obtains, NYSOH must request additional information from the applicant to resolve the inconsistency (45 CFR § 155.320 (c)(3)(iii), (iv)).

NYSOH must provide the applicant with notice of the inconsistency in their account and 90 days to provide satisfactory documentary evidence to resolve the inconsistency (45 CFR § 155.315 (f)(2)). If NYSOH remains unable to verify the attestation of the applicant, NYSOH must redetermine the applicant's eligibility based on the information available from the data sources unless the applicant demonstrates that they are unable to provide the required documentation (45 CFR § 155.315(f)(2), (g)).

Upon making an eligibility redetermination, NYSOH must notify the applicant and implement any changes in eligibility to APTC effective as of the first day of the month following the date of the notice (45 § 155.310(f), 45 CFR § 155.330(e), (f)(1)(i)).

Legal Analysis

The issue under review is whether NYSOH properly determined that you and your spouse were eligible to enroll in a QHP at full cost effective as of January 1, 2017.

An individual requesting financial assistance to help pay for the cost of coverage provided through NYSOH is required to attest to his or her household's projected annual income. For individuals seeking APTC, NYSOH must request income data from federal data sources to verify an individual's income attestation.

If NYSOH cannot verify an individual's attestation, NYSOH must provide the individual with notice of the inconsistency.

In the eligibility determination issued on November 30, 2016, you were advised that your and your spouse's eligibility for APTC was only conditional, and that you needed to confirm your household's income before December 13, 2016.

The record reflects that NYSOH did not receive the requested income documentation before the deadline.

However, you testified that you faxed income documentation to NYSOH on November 30, 2016. Furthermore, the record contains a Transmission Verification Report showing that five-documents were faxed to [redacted] on November 30th at 8:01 pm (Appellant Exhibit A).

NYSOH must provide the applicant with a period of 90 days to submit satisfactory documentary evidence to resolve the inconsistency between the applicant's attestation and the data sources.

The record supports that you initially applied for financial assistance, for 2017, on November 29, 2016. However, NYSOH redeteremined your and your spouse's eligibility for financial assistance on December 19, 2016. Therefore, NYSOH did not provide your household the 90-day time period to submit income documentation.

Therefore, the December 20, 2016, eligibility determination stating that you and your spouse were no longer eligible for APTC because you failed to submit income documentation is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your APTC for January 2017 and to facilitate the possible reimbursement of the portion of the January 2017 premium that was paid because APTC was not applied to your and your spouse's health insurance premium.

Decision

The December 20, 2016, eligibility determination stating that you and your spouse were no longer eligible for APTC because you failed to submit documentation is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your APTC for January 2017 and to facilitate the possible reimbursement of the portion of the January 2017 premium that was paid because APTC was not applied to your and your spouse's health insurance premium.

Effective Date of this Decision: April 21, 2017

How this Decision Affects Your Eligibility

NYSOH erred in terminating your APTC effective January 1, 2017, without providing your household 90 days to submit documentation.

Your case is being sent back to NYSOH to reinstate your APTC as of January 1, 2017.

Your case is also being sent back so that Plan Management to facilitate the possible reimbursement of the portion of the January 2017 that was paid because APTC was not applied to your and your spouse's health insurance premium.

If You Disagree with this Decision (Appeal Rights)

This Decision is final unless you submit an appeal request to the Federal Marketplace or bring a lawsuit under New York Civil Practice Law and Rules, Article 78.

You may bring a lawsuit on any Appeals Unit decision in New York State court in accordance with Article 78 of the New York Civil Practice Law and Rules. This must be done within four months of the Decision Date, which appears on the first page of this Decision.

Additionally, Appeals Unit decisions on issues involving eligibility for qualified health plans, advance premium tax credits, and cost-sharing reductions may be appealed to the Federal Marketplace. This must be done within 30 days of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

If you have questions about appealing to the Federal Marketplace, you can contact them in any of the following ways:

- By calling the Customer Service Center at 1-800-318-2596
- By mail at:

  Health Insurance Marketplace
  Attn: Appeals
  465 Industrial Blvd.
  London, KY 40750-0061

- By fax: 1-877-369-0129

If you wish to be represented by an attorney in bringing an outside appeal and do not know how to go about getting one, you may contact legal resources available to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services.

If You Have Questions about this Decision (Customer Service Resources):

You can contact us in any of the following ways:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:

  NY State of Health Appeals
  P.O. Box 11729
  Albany, NY 12211

- By fax: 1-855-900-5557

Summary

The December 20, 2016, eligibility determination stating that you and your spouse were no longer eligible for APTC because you failed to submit documentation is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your APTC for January 2017 and to facilitate the possible reimbursement of the portion of the January 2017 premium that was paid because APTC was not applied to your and your spouse's health insurance premium.

NYSOH erred in terminating your APTC effective January 1, 2017, without providing your household 90 days to submit documentation.

Your case is being sent back to NYSOH to reinstate your APTC as of January 1, 2017.

Your case is also being sent back so that Plan Management to facilitate the reimbursement of the portion of the January 2017 that was paid because APTC was not applied to your and your spouse's health insurance premium.

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY – Spanish: 1-877-662-4886).

Getting Help in a Language Other than English

This is an important document. If you need help to understand it, please call 1-855-355-5777. We can give you an interpreter for free in the language you speak.

Español (Spanish)

Este es un documento importante. Si necesita ayuda para entenderlo, llame al 1-855-355-5777. Le proporcionaremos un intérprete sin ningún costo.

中文 (Traditional Chinese)

這是重要的文件。 如果您需要獲得關於瞭解文件內容方面的協助，請致電 1-855-355-5777。我們可以為您免費提供您所使用語言的翻譯人員。

Kreyòl Ayisyen (Haitian Creole)

Sa a se yon dokiman ki enpòtan. Si ou bezwen èd pou konprann li, tanpri rele nimewo 1-855-355-5777. Nou kapab ba ou yon entèprèt gratis nan lang ou pale a.

中文 (Simplified Chinese)

这是一份重要的文件。如果您需要帮助理解此文件，请打电话至 1-855-355-5777。我们可以为您免费提供相应语种的口译服务。

Italiano (Italian)

Questo è un documento importante. Per qualsiasi chiarimento può chiamare il numero 1-855-355-5777. Possiamo metterle a disposizione un interprete nella sua lingua.

한국어 (Korean)

중요한 서류입니다. 이해하는 데 도움이 필요하시면 1-855-355-5777 번으로 연락해 주십시오. 귀하의 언어에 대한 무료 통역 서비스가 제공됩니다.

Русский (Russian)

Это важный документ. Если Вам нужна помощь для понимания этого документа, позвоните по телефону 1-855-355-5777. Мы можем бесплатно предоставить Вам переводчика Вашего языка.

العربية (Arabic)

هذه وثيقة مهمة. إذا كنت بحاجة إلى مساعدة لفهم محتواها، يُرجى الاتصال بالرقم 1-855-355-5777. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجانًا.

বাংলা (Bengali)

এটি এক গুরুত্বপূর্ণ নথি। এটি বুঝতে আপনার যদি সাহায্যের প্রয়োজন হয় তাহলে, অনুগ্রহ করে 1-855-355-5777 নম্বরে কল করুন। আপনি যে ভাষায় কথা বলেন বিনামূল্যে আমরা আপনাকে একজন দোভাষী দিতে পারি।

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY – Spanish: 1-877-662-4886).

Français (French)

Ceci est un document important. Si vous avez besoin d'aide pour en comprendre le contenu, appelez le 1-855-355-5777. Nous pouvons mettre gratuitement à votre disposition un interprète dans votre langue.

हिंदी (Hindi)

यह एक महत्वपूर्ण दस्तावेज़ है। अगर आपको इसे समझने में सहायता चाहिए, तो कृपया 1-855-355-5777 पर कॉल करें। हम आपकी भाषा बोलने वाला एक दुभाषिया निःशुल्क उपलब्ध करवा सकते हैं।

日本語 (Japanese)

これは重要な書類です。理解するために支援が必要な場合は、1-855-355-5777 にお電話ください。通訳を無料で提供いたします。

नेपाली (Nepali)

यो एउटा महत्त्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई निःशुल्क दोभाषे उपलब्ध गराउन सक्छौं।

Polski (Polish)

To jest ważny dokument. W przypadku konieczności skorzystania z pomocy w celu zrozumienia jego treści należy zadzwonić pod numer 1-855-355-5777. Istnieje możliwość uzyskania bezpłatnej usługi tłumacza języka, którym się posługujesz.

Twi (Twi)

Krataa yi yɛ tow krataa a ho hia. Sɛ wo hia ɛho nkyerɛkyerɛmu a, yɛ srɛ wo, frɛ 1-855-355-5777. yƐbƐtumi ama wo obi a ɔkyerƐ kasa a woka no ase ama wo kwa a wontua hwee.

اردو (Urdu)

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم1-855-355-5777 پر کال کریں۔ ہم آپ کو آپ کی مادری زبان میں ایک مفت مترجم فراہم کر سکتے ہیں۔

Tiếng Việt (Vietnamese)

Đây là tài liệu quan trọng. Nếu quý vị cần trợ giúp để hiểu tài liệu này, vui lòng gọi 1-855-355-5777. Chúng tôi có thể cung cấp thông dịch viên miễn phí nói ngôn ngữ của quý vị.

אידיש (Yiddish)

דאס איז א וויכטיגער דאקומענט. אויב איר דארפט הילף עס צו פארשטיין, ביטע רופט 1-855-355-5777. מיר קענען אייך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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